

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-12. Policies and Procedures Regarding Public Disclosure Pursuant to Utah Code Ann. ~~[Section]~~Sections 41-3-209, 59-1-210, 59-1-403, and 59-1-405.

~~[This rule outlines the policies and procedures of the Commission regarding the public disclosure of and access to documents, workpapers, decisions, and other information prepared by the Commission under provisions of Utah Code Ann. Section 59-1-210.]~~

~~[A. Property Tax Orders. Property tax orders signed by the Commission will be mailed to the appropriately named parties in accordance with the Commission's rules of procedure. Property tax orders may also be made available to persons other than the named parties upon written request to the Commission. Nonparty requests will be subject to the following limitations:~~

~~1. If, upon consultation with the taxpayer, the Commission determines that a particular property tax order contains information which, if disclosed, would constitute a significant competitive disadvantage to the taxpayer, the Commission may either prohibit the disclosure of the order or require that applicable information be removed from the order prior to it being made publicly available.~~

~~2. The limitation in subsection 1. does not apply if the taxpayer affirmatively waives protection against disclosure of the information.]~~

~~[B.](1) [Other Tax Orders.]Hearings.~~

~~(a) Except as provided under Subsection (1)(b), and pursuant to Section 59-1-405, hearings related to appeals filed with the commission are confidential tax matters and not subject to Title 52, Chapter 4, Open and Public Meetings Act.~~

~~(b) Hearings related to the enforcement of Title 41, Chapter 3, Motor Vehicle Business Regulation, are open to the public.~~

~~(2) Orders.~~

~~(a) [Written]Except as provided in Subsections (2)(b) through (e), written orders signed by the [Commission]commission [relating to all tax appeals other than property tax matters will also]will be mailed to the [appropriately] named parties in accordance with [the Commission rules of procedure]commission procedures. Copies of these orders or information about them will not be provided to any person other than the named parties except [for]under the following circumstances:~~

~~[1.](i) [if the Commission determines that] the parties have affirmatively waived any claims to confidentiality; or~~

~~[2.](ii) [if the Commission determines that] the orders may be effectively sanitized through the deletion of references to the parties, specific tax amounts, witnesses, geographic information, or any other information [attributable to a return filed with the Commission]that might identify a particular person.~~

~~(b) Property tax orders signed by the commission that do not contain commercial information will be mailed to the named parties in accordance with commission procedures. Copies of these orders or information about them will not be provided to any person other than the named parties except under the following circumstances:~~

~~(i) the parties have affirmatively waived any claims to confidentiality;~~

~~(ii) the orders may be effectively sanitized through the deletion of reference to the parties, specific tax amounts, witnesses, geographic information, or any other information that might identify any private party to the appeal; or~~

(iii) the disclosure is required under state law.

(c)(i) Property tax orders signed by the commission that contain commercial information will be mailed to the appropriate persons in accordance with Section 59-1-404 and rule R861-1A-37, Provisions Relating to Disclosure of Commercial Information.

(ii) Copies of property tax orders described in Subsection (2)(c)(i), or information about them, will be made available to persons other than the persons described in Section 59-1-404 and rule R861-1A-37 under the following circumstances:

(A) the parties have affirmatively waived any claims to confidentiality;

(B) the orders may be effectively sanitized through the deletion of reference to the parties, specific tax amounts, commercial information, witnesses, geographic information, or any other information that might identify any private party to the appeal; or

(C) the disclosure is required under state law.

(d) Orders resulting from a hearing related to the enforcement of Title 41, Chapter 1a, Motor Vehicle Act, will be mailed to the named parties in accordance with commission procedures. Copies of these orders or information about them will not be provided to any person other than the named parties except under the following circumstances:

(i) the parties have affirmatively waived any claims to confidentiality;

(ii) the orders may be effectively sanitized through the deletion of reference to the parties, specific tax amounts, witnesses, geographic information, or any other information that might identify any private party to the appeal; or

(iii) the disclosure is required under state law.

(e) Orders resulting from a hearing related to the enforcement of Title 41, Chapter 3, Motor Vehicle Business Regulation, are public information and may be publicized.

~~[C. Imposition and Waiver of Penalty and Interest.~~

~~1. All facts surrounding the imposition of penalty and interest charges as well as requests for waiver of penalty and interest charges are considered confidential and will not be disclosed to any persons other than the parties specifically involved. These facts include the names of the involved parties, the amount of penalty and interest, type of tax involved, amount of the tax owed, reasons for the imposition of the penalty and interest, and any other information relating to imposition of the penalty and interest, except as follows:~~

~~(a) if the Commission affirmatively determines that a finding of fraud is involved and seeks the imposition of the appropriate fraud penalties, the Commission may make all pertinent facts available to the public once legal action against the parties has been commenced; or~~

~~(b) if the Commission determines that the parties have affirmatively waived their rights to confidentiality, the Commission will make all pertinent facts available to the public.~~

~~[D.](3) Commission Notes and Workpapers.~~

~~[1.](a) All workpapers, notes, and other material prepared by the commissioners, as well as staff and employees of the [Commission]commission, are [to be considered confidential]protected, and access to the specific material is restricted to employees of the [Commission]commission and its legal counsel only.~~

(b) Examples of this restricted material include audit workpapers and notes, ad valorem appraisal worksheets, and notes taken during hearings and deliberations. In the case of information prepared as part of an audit, the auditing division will, upon request, provide summary information of the findings to the taxpayer. These items will not be available to any person or party by discovery carried out pursuant to these rules or the Utah Rules of Civil Procedure.

~~2. Relevant workpapers of the property tax division prepared in connection with the assessment of property by the Commission, pursuant to the provisions of Utah Code Ann. Section 59-2-217, shall be provided to the owner of the property to which the assessment relates, at the owner's request.]~~

~~[E.](4) Reciprocal Agreements.~~

~~(a) [Pursuant to Utah Code Ann. Sections 59-7-537, 59-10-545 and 59-12-109, the Commission]The commission may enter into individual reciprocal agreements to share specific tax information with authorized representatives of the United States Internal Revenue Service[, or the revenue service of any other state.]~~

~~(b) For all taxes other than individual income tax and corporate franchise tax, the commission may share information gathered from returns and other written statements with [tax officials—of]the federal government, other states, and [representatives—of—local governments]political subdivisions within and without the state [of Utah; provided, however, that no information will be provided to any governmental entity if providing such information would violate any statute or any agreement with the Internal Revenue Service]if the political subdivision, state, or federal government grant substantially similar privileges to this state.~~

~~[F. Other Agreements. Pursuant to Utah Code Ann. Section 59-12-109, the Commission may provide departments and political subdivisions of the state of Utah with copies of returns and other information required by Chapter 12 of Title 59. This information is available only in official matters and must be requested in writing by the head of the department or political subdivision. The request must specifically indicate the information being sought and how the information will be used. The Commission will respond in writing to the request and shall impose conditions of confidentiality on the use of the information disclosed.]~~

~~G. Multistate Tax Commission. The Commission is authorized to share specific tax information for audit purposes with the Multistate Tax Commission.]~~

~~[H.](5) Statistical Information. The [Commission]commission authorizes the preparation and publication of statistical information regarding the payment and collection of state taxes. The information will be [prepared by the various divisions of the Commission and]made available after review and approval of the [Commission]commission.~~

~~[I.](6) [Public Record Information.]Publication of Delinquent Taxpayer Information.~~

~~(a) For purposes of this Subsection (6), “delinquent taxpayer” does not include a person subject to a tax under:~~

~~(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;~~

~~(ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;~~

~~(iii) Title 59, Chapter 10, Part 2, Trusts and Estates; or~~

~~(iv) Title 59, Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.~~

~~(b) [Pursuant to Utah Code Ann. 59-1-403(3)(c), the Commission]The commission may publicize the following information relating to a delinquent taxpayer:~~

~~(i) name[and other appropriate information, as contained in the public record, concerning delinquent taxpayers, including their];~~

~~(ii) [addresses,]address;~~

~~(iii) the amount of money owed by tax type[, as well as]; and~~

(iv) any legal action taken by the [~~Commission~~commission], including charges filed[, and property seized[, etc. ~~No information will be released which is not part of the existing public record~~].

KEY: developmental disabilities, grievance procedures, taxation, disclosure requirements

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